



April 1, 1999

Mr. Richard Brown  
Assistant City Attorney  
Office of the City Attorney  
Municipal Building  
Dallas, Texas 75201

OR99-0892

Dear Mr. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 123358.

The Dallas Police Department (the "department") received an open records request for three specified employment grievances filed by two named police officers and all other grievances and final findings pertaining to employee grievances pertaining to certain promotions within the department. You contend that the requested information is excepted from required public disclosure pursuant to, *inter alia*, section 552.103 of the Government Code.

To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin 1997, no pet.); Open Records Decision No. 588 at 1 (1991). You explain that the requestor is a Dallas police officer who has filed suit against the City of Dallas for racial discrimination and retaliation. A review of the employee's petition reveals that his complaint is derived in part from his being denied a promotion. We therefore conclude that you have made the requisite showing that the requested information pertaining to other grievances filed regarding the referenced promotional processes relate to pending litigation for purposes of section 552.103. The department therefore may withhold these records pursuant to section 552.103.<sup>1</sup>

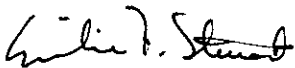
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<sup>1</sup>In reaching this conclusion, we assume that the requestor has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the requestor has seen or had access to any of the information in these records, there would be no justification for now withholding that information from him pursuant to section 552.103. We also note that the applicability of section 552.103 ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

You contend that section 552.103 protects the other requested grievances because the requestor "is now requesting grievances filed by officers which Plaintiff has identified as having knowledge relevant to his claims and grievances regarding" the referenced promotions. You have not, however, explained how the grievances filed by the named individuals "relate" to the requestor's pending action against the city. Nor have you have submitted to this office for review copies of those individuals' grievances. Consequently, this office has no basis on which to conclude that these grievances relate to the pending litigation. Because you have not met your burden under section 552.103 with regard to these documents, we conclude that the department must release this information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Emilie F. Stewart  
Assistant Attorney General  
Open Records Division

EFS/RWP/nc

Ref.: ID# 123358

Enclosures: Submitted documents

cc: Mr. Lee Bush  
401 Wynnewood Village  
Dallas, Texas 75224  
(w/o enclosures)